

**DURHAM, NORTH CAROLINA  
MONDAY, FEBRUARY 18, 2008  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read the following proclamations declaring February 18-22, 2008 as Chancellor Charlie Nelms Installation Week, March 2-8, 2008 as Black Church Week of Prayer for the Healing of AIDS and February 2008 as Human Relations Month.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc: Council Member Woodard: Police Chief Lopez - Police Academy Graduation; Antioch Baptist Church and Rev. Michael Page – Senior Luncheon; OB-GYN Department at Duke University Health System -- 1<sup>st</sup> Blue Jean Ball; and Durham Art Guild--Annual Arts Fundraiser.

Mayor Pro Tempore Cole-McFadden presented Fleet Director Kent Cash with the Cole-McFadden Diversity Change Agent Award.

Mayor Pro Tempore Cole-McFadden: Reading Across America Event at Neal Middle School, Youth Explosion at St. Paul Church - Pastor Height; Antioch Baptist Church and Ann Atwater.

Council Member Clement: He announced that the PAC 1 Coffee with Council session at Eastway Elementary School was the most organized, creative and participatory session attended and congratulated co-facilitators and their team for this program.

Council Member Clement read a letter from Police Chief H. E. King to City Manager S. J. Mahaffey dated June 10, 1944 recognizing the appointment of the first black police officers [James B. Samuel and Clyde L. Cox] in the City of Durham effective July 1, 1944.

Mayor Bell: 2008 Local Living Legions honorees: Vivian A. Edmonds, Alex Rivera, George Bell, Ervin Hester, Howard Clement, III, and Lonita Whitted for their contributions to the City of Durham.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker provided clarification on the purpose of agenda item 31, provided Council with

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an updated memo for agenda item 33 and requested that this item be held for one cycle to respond to additional questions raised by Council that will be provided at the Work Session.

City Manager Baker recognized John Read and Officer Erwin Baker who provided an update on the 7-Stars Campaign. Mr. Read reported City employees raised \$110,000 this year.

City Manager Baker and several members of Council thanked City employees for their participation in this event.

City Manager Baker gave an update on the water supply. The following memo was provided to Council:

**CITY OF DURHAM, NORTH CAROLINA**

February 4, 2008

**MEMO TO:** Patrick Baker, City Manager

**FROM:** Vicki Westbrook, Deputy Director, Water Management

**SUBJECT:** Water Supply Update, February 12, 2008

The central piedmont area continues in the D-4 Exceptional Drought classification status as designated by the NC Drought Management Advisory Council. Overall, 67 counties in NC fall into the D 4 designation. Stage IV Severe Mandatory Conservation restrictions were enacted effective 12:01 am December 3<sup>rd</sup>. Durham has achieved an overall 40% reduction in demand since mandatory restrictions went into place in September of 2007. This is determined by comparing the 30-day running average on September 21<sup>st</sup> of 35.28 MGD to the 30-day running average on January 27th of 21.13 MGD [this methodology is consistent with the methodology utilized by the Governor's office]. In the month to month comparison, there is a 10 % reduction in February '08 use (21.87 MGD) as compared to February '07 (24.38 MGD)

**Current status:**

Recent rains elevated streams flows at the end of last week. Although stream flows have since dropped to below normal levels for this time of year, they have not bottomed out as they did in November and December and have provided measurable increases in lake volume.

**Lake Levels:**

Lake Michie is at 333.90 MSL, 7.1 feet below full

Little River Lake is at 332.10 MSL, 22.9 ft. below full

Staff began pumping from Teer Quarry Friday, December 29<sup>th</sup>; to date, approximately 163.35 MG has been pumped. Water has also been withdrawn from the Eno River when flows are well over the 10 cubic foot per second requirement. Approximately 22.5 MG have been withdrawn during February.

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**Days of Supply** of using 30-day running average of **18.46 MGD\***

- Premium water remaining based on usable storage in Lake Michie and Little River Lake of 2.311 BG (125 days) and Teer Quarry (24) days = **149 days**
- 1.2 Billion Gallons (below the intakes of Little River & Lake Michie) = 65 days
- Total days = **214** (September 6, 2008)
- Please note all calculations assume no rainfall or stream flows.

*\* Average demand does not include water purchased from Cary or OWASA; this usage does not exert demand on the two supply lakes.*

**Additional resources:**

- Continuing to pump water from Teer Quarry to offset demands on lakes. Using this strategy, the combined lake capacity is now 36% - up from a low of 11% on 12/23/07.
- Staff continues to work with Town of Cary staff to increase the pumping capacity of the #1 interconnection. With the increased pumping capacity, Durham can expect to receive an additional 2 MGD, for an overall 4 MGD of the Jordan Lake allocation. Purchase of water from Cary since December total 225.54 MG.

The second planned interconnection with Town of Cary has been moved up in the design/construction schedule. When complete, possibly mid-summer, this interconnection could provide in up to 7 MGD.

Council held discussion on pumping water from OWASA.

Deputy Director Don Greeley, of Water Management, reported several weeks ago, OWASA has stopped pumping water to Durham.

Council Member Brown made comments on the Water Resolution passed by the Durham City/County Planning Commission with a list of suggestions to make Durham a drought resistant City. He also requested that the discussion regarding the water issue be heard at the beginning of the City Council Work Session.

Council held discussion on the water barrel program.

Deputy Director Vickie Westbrook of Water Management announced that the City will be co-hosting an event with the Soil and Water Conservation District on March 8, 2008 concerning the purchase of water barrels at the Foster Street office.

Council Member Brown asked the administration to review the cost issue regarding the water barrels with the City of Raleigh and Cary. Also, he asked the administration to remove the following sentence from the City's website and future documentation: *Durham has achieved an overall 40% reduction in demand since mandatory restrictions went into place in September of 2007. This is determined by comparing the 30-day running average on September 21<sup>st</sup> of 35.28 MGD to the 30-day running average on January 27th of 21.13 MGD [this methodology is consistent with the methodology utilized by the Governor's office].*

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For clarification, Mayor Bell made comments on the water reduction rate laid out by the Governor's Office.

Council Member Clement discussed the need for a centralized Water Management Authority governing water management to eliminate or minimize confusion.

Council held discussion on Mt. Olive providing rain barrels at a cost of \$35, newsletter that was a part of the water bill and the issue of water conservation.

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority items was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item 11 was pulled.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve the Consent Agenda as amended was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

#### **[CONSENT AGENDA]**

#### **SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve City Council minutes for the January 22, 2008 City Council Meeting;

To approve minutes for the November 28, 2007 Special City Council Meeting; and

To approve minutes for the December 20, 2007 Joint Meeting of the Durham City Council and Durham Board of County Commissioners was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

#### **SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to appoint Elizabeth Drogin to fill one (1) vacancy on the Human Relations Commission for a Non-Minority Female with the term to expire on June 30, 2008 was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: BID REPORT – DECEMBER 2007**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of December 2007 was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Date:** January 18, 2008

**To:** Patrick W. Baker, City Manager

**Through:** Wanda S. Page, Deputy City Manager  
Kenneth C. Pennoyer, Finance Director

**From:** Joseph W. Clark, Purchasing Manager

**Subject:** Bid Report – December 2007

**Recommendation**

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **December 2007**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: Police Emergency Vehicle Light Bars & Accessories**

Purpose of Bid: To provide the Police Department with light bars for their vehicles

Comments:

Opened: December 12, 2007

Bidders:	Dana Safety Supply, Inc. Greensboro, NC	* \$55,374.89
	Arrington Police Supply Greensboro, NC	\$56,135.86

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

**February 18, 2008**

Total Workforce	9		# Black Males	0	0%
Total # Females	2	23%	# White Males	7	77%
Total # Males	7	77%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	23%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

**2. Bid: Tire Changing Machine**

Purpose of Bid: To provide the Fleet Maintenance Department with a Tire Changing Machine

Comments:

Opened: December 12, 2007

Bidders:	American Tire Distributors	* \$18,381.00
	Raleigh, NC	
	Wholesale Truck Parts	\$18,766.00
	Garner, NC	
	Down East Sales	\$19,200.00
	LaGrange, NC	

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

**WORKFORCE STATISTICS**  
**CORPORATION STATISTICS**

Total Workforce	28		# Black Males	10	36%
Total # Females	1	3%	# White Males	17	61%
Total # Males	27	97%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	3%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (\*).

**SUBJECT: RESOLUTION AUTHORIZING THE SEMI-ANNUAL CITY AUCTION**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt a resolution authorizing the Semi-Annual City Auction to be held on April 5, 2008 at

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10:00 a.m. was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9330**

**SUBJECT: CONSTRUCTION OF FIFTEEN SINGLE-FAMILY UNITS–EASTWAY VILLAGE DEVELOPMENT - PHASE III - BLUE RIDGE ENTERPRISES, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract with Blue Ridge Enterprises Inc. for the construction of fifteen single-family units for Phase III of the Eastway Village development in an amount of \$2,340,000.00;

To establish a contingency fund for the construction of fifteen single-family units for Phase III of the Eastway Village development project in the amount of \$227,800.00;

To authorize the City Manager to execute any necessary change orders for the Eastway Village development contract provided the total cost of all changes orders does not exceed \$227,800.00 and that the total project cost does not exceed \$2,567,800.00;

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council; and

To adopt an ordinance amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of increasing appropriation for Eastway Village by \$2,304,800.00 was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13547**

**SUBJECT: AMENDMENT TO ONE PROVISION OF ATTACHMENT B OF EACH OF THE PERMANENT LOAN AGREEMENTS BETWEEN STEWART HEIGHTS LLC, STEWART SQUARE LLC, STEWART CIRCLE LLC AND THE CITY OF DURHAM**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute an Amendment to the existing Loan Agreements for Stewart Heights LLC and Stewart Square LLC to add clarifying language to Attachment B; and

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To authorize the City Manager to execute the previously approved Loan Agreement with Stewart Circle LLC, adding the clarifying language to Attachment B was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: SECOND AMENDMENT - TRAINING FOR SUCCESS CONTRACT FOR WIA YOUTH SERVICES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute the Second Amendment to the Workforce Investment Act Contract for Youth Services with Training for Success, Inc.; and

To authorize the City Manager to modify the contract provided that the modifications do not increase the dollar amount and that the modifications do not decrease the delivery of services to the City was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: LEASE AND LICENSE AGREEMENT WITH SPRINTCOM, INC. - ELLIS ROAD WATER TANK**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute the Lease and License Agreement with Sprintcom, Inc. to attach Cellular Antenna to Ellis Road Water Tank, 801 Ellis Road, Parcel ID #S 156775 and 156779; and

To authorize the City Manager to make changes to the agreement provided such changes do not materially affect the intent and purpose of the agreement was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT EXTENSION FOR DURHAM BULLS ATHLETIC PARK CLEANING - SPARKLE AND SHINE CLEANING SERVICES, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract extension with Sparkle and Shine Cleaning Services, Inc. for janitorial services at the Durham Bulls Athletic Park in the amount of \$499,056.98 for the period beginning March 1, 2008 through September 30, 2009; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:06 p.m.



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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: SUPPLEMENTAL AGREEMENT NO. 2 BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) AND THE CITY OF DURHAM FOR THE REMOVAL AND REPLACEMENT OF THE EXISTING PEDESTRIAN BRIDGE CROSSING OVER THE DURHAM FREEWAY (NC 147) AT ALSTON AVENUE**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt a resolution to amend North Carolina Department of Transportation Agreement U-4445; and

To authorize the City Manager to execute Supplemental Agreement No. 2 for an extension of time of seven (7) years to complete North Carolina Department of Transportation Project U-4445 by December 23, 2010 for the Pedestrian Bridge across NC 147 (the Durham Freeway) between Bacon Street and Alston Avenue was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9531**

**SUBJECT: CONTRACT AMENDMENT SW-20 HILLANDALE ROAD SIDEWALK - HOLMES CONTRACTING, INCORPORATED**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract amendment to increase the contract for SW-20 Hillandale Road Sidewalk with Holmes Contracting, Incorporated to \$65,482.65; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by City Council was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONSERVATION EASEMENT DEED AND PLAT FOR ELLERBE CREEK STREAM RESTORATION PROJECT IN NORTHGATE PARK**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the Mayor to execute the conservation easement deed and plat for the Ellerbe Creek Stream Restoration Project in Northgate Park, and to authorize the City Manager to execute any associated agreements related to the project; and

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To authorize changes to the conservation easement deed, plat and/or associated agreements provided such changes do not increase the City's obligations, or substantially modify the intent or the material conditions of the project to the detriment of the City was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ESRI SOFTWARE MAINTENANCE SERVICES - ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to purchase the renewable software maintenance service provided by Environmental Systems Research Institute, Inc. in the amount of \$92,899.00 to cover the period of one year; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the agreement was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH DURHAM PUBLIC SCHOOLS BOARD OF EDUCATION TO SERVE DURHAM ELEMENTARY SCHOOL B**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to enter into a water and sewer extension agreement with Durham Public Schools Board of Education (For Durham Elementary School B); and

To authorize the City Manager to modify the contract prior to execution provided that such modifications do not increase the dollar amount of the contract and do not significantly decrease the obligations of the contractor was approved at 8:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

*The City Council disposed of the following agenda items at the February 7, 2008 Work Session:*

**9. Proposed Sale of Property at 516-B Eastway Avenue PIN# 0831-10-45-6470, 516-C Eastway Avenue PIN# 0831-10-45-6470 and 517-B Eastway Avenue PIN# 0831-10-45-4470**

To determine the properties at 516-B Eastway Avenue, 516-C Eastway Avenue and 517-B Eastway Avenue as surplus;

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To authorize the sale of the properties under the authority of Section 86 of the City Charter;

To accept the offers to purchase for the properties located at 516-B Eastway Avenue, 516-C Eastway Avenue and 517-B Eastway Avenue; and

To authorize the City Manager to sell and the Mayor to convey the properties by a non-warranty deed and authorize the City Manager to terminate these contracts for sale if the contract terms are not fulfilled.

*(This item was approved at the 02/07/08 Work Session)*

**14. Professional Services Agreement for the Design of General Services Bundle**

To authorize the City Manager to execute Professional Services Agreement for the General Services Bundle with Roughton, Nickelson, De Luca, PA in an amount not to exceed \$427,600.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To establish a project contingency in the amount of \$42,000.00; and

To authorize the City Manager to negotiate and execute change orders on the Professional Services Agreement for the General Services Bundle, provided the total cost does not exceed \$469,600.00 which is the full amount budgeted for design phase services plus the project contingency.

*(This item was approved at the 02/07/08 Work Session)*

**19. 2006 - 2007 Durham Workforce Development Board Annual Report Presentation**

To receive a presentation on the Durham Workforce Development Board and Durham Job Link Career Center 2006 - 2007 Annual Report.

*(A presentation was received at the 02/07/08 Work Session)*

**20. The Future Development of Leigh Farm Park**

To receive a presentation on the Future Development of Leigh Farm Park.

*(This item was deferred to the February 21, 2008 Work Session)*

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**21. East End Connector**

To receive a presentation on the draft environmental document for the East End Connector project and an update on the work of the Ad Hoc Committee and provide comments.

*(A presentation was received at the 02/07/08 Work Session)*

**25. Lee Gardner**

To receive comments from Lee Gardner regarding City Code Article V Sections 5 P7 A, E, F, H being increased.

*(Comments were received at the 02/07/08 Work Session)*

**26. Laura Atkinson**

To receive comments from Laura Atkinson regarding D & L Parts Warehouse on Morreene Road.

*(Comments were received at the 02/07/08 Work Session)*

**27. Turnage Heights Neighbors**

To receive comments from Will Robinson regarding D & L Parts Warehouse on Morreene Road.

*(Comments were received at the 02/07/08 Work Session)*

**28. Warehouse Opposition Group**

To receive comments from Cecilia Eichenberger regarding D & L Parts Warehouse on Morreene Road.

*(Comments were received at the 02/07/08 Work Session)*

**29. Time Warner Road Runner Internet Service**

To authorize the City Manager to execute Business Class Commercial Service Order Agreement in the amount of \$121,280.00 for 3 years with Time Warner Cable, TIME WARNER ENTERTAINMENT-ADVANCE/NEWHOUSE PARTNERSHIP DOING BUSINESS AS RALEIGH DIVISION; and

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To authorize the City Manager to modify the agreement before execution, provided that modifications do not increase the dollar amount of the agreement and are consistent with the general intent of the existing version of the agreement.

*(This item was approved at the 02/07/07 Work Session)*

**30. Grant Acceptance of e-NC PEG Channel Grant for Television Equipment**

To authorize the City Manager to accept the e-NC PEG Channel Grant by executing the agreement with Rural Economic Development Center, Inc., agent for the e-NC Authority; and

To adopt an ordinance amending General Capital Improvement Project Ordinance, Fiscal Year 2007-08, as amended, the same being Ordinance #13428 for the purpose of recognizing the \$25,000.00 E-NC grant and increasing the Web DB/Channel 8 Integration project appropriation by \$25,000.00 to build the City's government television capabilities.

*(This item was approved at the 02/07/08 Work Session)*

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: SUB-RECIPIENT CONTRACT BETWEEN DURHAM COUNTY (FOR THE OPERATION OF A PROGRAM FOR DURHAM COUNTY CRIMINAL JUSTICE RESOURCE CENTER) AND THE CITY OF DURHAM**

Larry Jarvis, of Community Development, provided Council with additional information to address questions raised at the Work Session.

Council Member Woodard stated he had questions relative to this item being a good investment of CDBG funds and what is the process for tracking participants.

Gudrun Parmer, Executive Director of Criminal Justice Resource Center, made comments on the additional information submitted commenting on the list of participants. She addressed the follow-up process of graduates who do not have a job at the time of graduation.

Victoria Peterson raised the following concerns with the County's program: participants not receiving any job placements, not partnering with the community and the need for an independent investigation.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the expenditure of '07-'08 CDBG funds in an amount not to exceed \$69,606.00 and the expenditure of reallocated '06-'07 CDBG funds in an amount not to exceed \$8,556.52 to fund the Durham County Criminal Justice Resource Center's Project Restore;

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To reallocate the remaining \$8,556.52 of '06-'07 CDBG funds to be spent during the '07-'08 fiscal year on this project;

To authorize the City Manager to execute a sub-recipient contract with Durham County for the Durham County Criminal Justice Resource Center to conduct two (2) cycles of Project Restore in the amount of \$78,162.52; and

To authorize the City Manager to modify the Contract and other related documents before execution, provided that the modifications do not increase the dollar amount of the Contract and do not lessen the obligations of the contractor was approved at 8:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM AFFORDABLE HOUSING COALITION FY 2007-2008 SUB-RECIPIENT AGREEMENT**

Council Member Woodard noted he still had questions regarding the success rate compared with other national studies.

Director of Housing Mike Barros made comments on the affordable housing foreclosures and reported staff is still collecting data to address questions raised by Council Member Woodard.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a performance based sub-recipient contract with the Durham Affordable Housing Coalition in an amount not to exceed \$76,000.00 from Community Development Block Grant funds (CDBG) to provide pre-purchase housing counseling, financial literacy housing counseling, and/or default delinquency housing counseling and perform rental project monitoring;

To authorize the retroactive payment of housing counseling services and rental project monitoring delivered by DAHC beginning February 1, 2008; and

To authorize the City Manager to make changes to the Contract which does not increase the agreement amount, lessen DAHC's duties, or extend the term of the agreement beyond February 1, 2009 was approved at 8:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

At this time during the meeting, Council Member Catotti thanked Rich Lee for his many years of service to the community and wished him well on his next endeavor.

**SUBJECT: TIME WARNER AGREEMENT FOR AIRING OF PROGRAMMING**

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To authorize the City Manager to execute a contract with Time Warner, Inc., to air public access programming starting March 1, 2008 through June 30, 2008 at a total monthly cost of \$6,037.50, for a total appropriation not to exceed \$24,150.00; and

To authorize the City Manager to modify the contract with Time Warner, Inc. before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract approved by Council.

Hart Pillow, of 1501 Moreland Avenue/representing Alliance for Community Media, urged Council to not vote on the issue tonight until citizens are able to add a plan for the protection of public access space and the development of the public access channel.

Bishop James Daniel, of 717 N. Hardee Street, expressed concern that citizens do not have access to the whole building at Time Warner and requested that the public be involved in the decision making process.

Maurice Darden, of 2 Shelly Place/St. Mark AME Zion Church, read names of church members who cannot get to church and urged Council to keep all access channels on a lower tier station.

Pastor Fredrick A. Davis, representing First Calvary Baptist Church, expressed concern that someone is not telling the truth and requested that the Cable TV Advisory Committee bring a recommendation to the City and County on the direction of the citizenry. He stated he would take on the task of mobilizing the citizenry of this community to show the impact of these various production programs.

Victoria Peterson urged Council to allow churches to minister to their congregation and to call a public meeting.

City Manager Baker provided background information on this issued. He stated the franchise agreement that the City had with Time Warner Cable has expired and there is a state franchise agreement that does not require Time Warner Cable to provide public access producers with the services that were provided under the franchise agreement with the City. He stated the question moving forward is who would be providing that service for public access producers and at what cost. He reported during the Joint City/County Meeting, he announced there would be no changes to the public access programming through the month of January. Today, he reported nothing will change at least until March 3rd. He reported Time Warner has taken the position to provide the City with only two basic channels [Channel 4 and 8] and the City has taken the position that legislation allows and requires three channels on the basic tier.

Rachel Green, President of the Interdenominational Ministerial Alliance, spoke in support of keeping religious programming on the air.

Rev. James Vaughan made comments on the work of Time Warner and expressed concern with the City's plan that the public has been shut out of the process. He stated tonight's vote would have halted public access operation and reported citizens do not want another lawsuit. He urged

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Council to make sure all the ramifications of this particular move are brought to the surface and to review ways to make sure this issue a positive entity.

Mayor Pro Tempore Cole-McFadden thanked everyone for coming out and spoke in support of this item.

Council Member Woodard explained why he wanted to delay this matter. He spoke in support of keeping access channels on the lower tier and made comments on the operation issue of this matter.

Council Member Clement thanked Rev. Vaughan for his leadership.

Mayor Bell commented there are other groups who want access to this channel other than the religious community.

Interim City Attorney Karen Sindelar briefed Council noting the City does have the obligation of whatever it funds to fund it in a non-discriminatory way to all voices.

As part of the City Manager's priority item, the City Council held this item one cycle for discussion at the February 21, 2008 City Council Work Session.

**SUBJECT: DROUGHT RESPONSE MEASURES FOR THE LAND DEVELOPMENT AND CONSTRUCTION SECTOR**

To direct the City Manager to prepare an Ordinance to amend Durham City Code Article VI., Water Conservation, Section 23-163 et seq. for the purpose of establishing additional potential water use restrictions for the land development and construction sector.

City Manager Baker stated this item would direct the administration to review ordinances and make recommendations for any future water use restrictions to address land development and construction sector.

**MOTION** by Council Member Catotti seconded by Council Member Woodard to direct the administration to bring proposed amendments to the ordinance for discussion at the February 21, 2008 City Council Work Session was approved at 9:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]**

**SUBJECT: GLENN VIEW STATION INITIAL (Z07-30A) – CITY OF DURHAM – SOUTH SIDE OF I-85, WEST OF GLENN SCHOOL ROAD AND NORTH OF EAST GEER STREET**



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To conduct a public hearing and receive public comments on the initial zoning map change for Glenn View Station Initial (Z07-30A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 224 of the Durham City Code, to establish CG (D) and RR; F/J-B, MTC (partial) zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the south side of I-85, west of Glenn School Road, and north of East Geer Street. PINs 0842-02-69-1391, -7887, -68-7814, -78-0946, -79-1191, -2323, -2632, -1823]

Interim City/County Planning Director Steve Medlin briefed Council on the initial zoning request. He certified that all legal notices and affidavits have been carried out pursuant to the requirements of the Unified Development Ordinance and general statutes.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to conduct a public hearing and receive public comments on the initial zoning map change for Glenn View Station Initial (Z07-30A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish CG (D) and RR; F/J-B, MTC (partial) zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13549**

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**SUBJECT: JORDAN AT SOUTHPOINT INITIAL (Z06-51A) – CITY OF DURHAM –  
SOUTH SIDE OF SCOTT KING ROAD, EAST OF NC 751 – NORTH OF  
CHATHAM COUNTY LINE**

To conduct a public hearing and receive public comments on the initial zoning map change for Jordan at Southpoint Initial (Z06-51A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RR; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the south side of Scott King Road, east of NC 751, and north of the Chatham County line. PIN 0717-04-81-0412]

Interim City/County Planning Director Steve Medlin briefed Council on the initial zoning request. He certified that all legal notices and affidavits have been carried out pursuant to the requirements of the Unified Development Ordinance and general statutes.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to conduct a public hearing and receive public comments on the initial zoning map change for Jordan at Southpoint Initial (Z06-51A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish RR; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**Ordinance #13550**

**SUBJECT: STEEL BLUE/JT PROPERTIES INITIAL (Z07-33A) – CITY OF DURHAM – EAST SIDE OF SOUTH MIAMI BOULEVARD AT THE INTERSECTION WITH MARLY DRIVE**

To conduct a public hearing and receive public comments on the initial zoning map change for Steel Blue/JT Properties Initial (Z07-33A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish CG(D), CG, and RS-20; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the East side of South Miami Boulevard at the intersection of Marly Drive. PIN 0840-04-72-1155]

Interim City/County Planning Director Steve Medlin briefed Council on the initial zoning request. He certified that all legal notices and affidavits have been carried out pursuant to the requirements of the Unified Development Ordinance and general statutes.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to conduct a public hearing and receive public comments on the initial zoning map change for Steel Blue/JT Properties Initial (Z07-33A);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish CG(D), CG, and RS-20; F/J-B zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest

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given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:05 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13551**

At this time during the meeting, Mayor Pro Tempore Cole-McFadden announced that she was appointed to the Human Development Steering Committee and required to attend three meetings. She reported that she is low on travel funds and Council Member Clement has agreed to loan her some money for her next meeting.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: WAL-MART SAFE NEIGHBORHOOD HEROES GRANT AWARD**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to accept the Wal-Mart Safe Neighborhood Heroes Grant by executing the grant documents; and

To adopt the Wal-Mart Safe Neighborhood Heroes Grant Project Ordinance in the amount of \$1,000.00 was approved at 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #13548**

There being no further business to come before the City Council, the meeting was adjourned at 9:06 p.m.

Linda E. Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk